

# **Request for Judicial Notice**

## **EXHIBIT 3**

**SENATE RULES COMMITTEE**

AB 587

Office of Senate Floor Analyses

(916) 651-1520 Fax: (916) 327-4478

---

THIRD READING

---

Bill No: AB 587

Author: Gabriel (D), et al.

Amended: 8/11/22 in Senate

Vote: 21

---

SENATE JUDICIARY COMMITTEE: 9-0, 6/28/22

AYES: Umberg, Caballero, Cortese, Durazo, Hertzberg, McGuire, Stern,  
Wieckowski, Wiener

NO VOTE RECORDED: Borgeas, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-0, 8/11/22

AYES: Portantino, Bradford, Laird, McGuire, Wieckowski

NO VOTE RECORDED: Bates, Jones

ASSEMBLY FLOOR: 64-1, 6/2/21 - See last page for vote

---

**SUBJECT:** Social media companies: terms of service

**SOURCE:** Anti-Defamation League

---

**DIGEST:** This bill requires social media companies, as defined, to post their terms of service and to submit reports to the Attorney General on their terms of service and content moderation policies and outcomes.

*Senate Floor Amendments of 8/23/22 narrow the enforcement mechanism*

**ANALYSIS:**

Existing law:

- 1) Provides, through the California Constitution, for the right of every person to freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of this right. Existing law further provides that a law may not restrain or abridge liberty of speech or press. (Cal. Const., art. I, § 2(a).)

- 2) Provides, in federal law, that a provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider. (47 U.S.C. § 230(c)(2).)
- 3) Limits the liability of a provider or user of an interactive computer service in connection with restricting access to certain materials. (47 U.S.C. § 230(c)(2).)
- 4) Establishes the Unfair Competition Law (UCL). (Bus. & Prof. Code § 17200 et seq.) Prohibits false or deceptive advertising to consumers about the nature of any property, product, or service, including false or misleading statements made in print, over the internet, or any other advertising method. (Bus. & Prof. Code § 17500.)
- 5) Requires certain businesses to disclose the existence and details of specified policies. (Bus. & Prof. Code § 22575; Civ. Code §§ 1714.43, 1798.90.53; Educ. Code § 66406.7(f).)

This bill:

- 1) Requires a social media company to post terms of service for each social media platform owned or operated by the company in a manner reasonably designed to inform all users of the social media platform of the existence and contents of the terms of service.
- 2) Requires the terms of service to be available in all Medi-Cal threshold languages, as defined, in which the social media platform offers product features, including, but not limited to, menus and prompts.
- 3) Requires social media companies to submit a terms of service report, on a semiannual basis to the Attorney General, who must make it available to the public in a searchable repository on its website.
- 4) Subject companies in violation to penalties of up to \$15,000 per violation per day to be sought by specified public prosecutors.

## Comments

In 2005, five percent of adults in the United States used social media. In just six years, that number jumped to half of all Americans. Today, over 70 percent of

adults use at least one social media platform. Facebook alone is used by 69 percent of adults, and 70 percent of those adults say they use the platform on a daily basis.

Given the reach of social media platforms and the role they play in many people's lives, concerns have arisen over what content permeates these sites, entering the lives of the billions of users, and the effects that has on them and society as a whole. In particular, the sharpest calls for action focus on the rampant spread of misinformation, hate speech, and sexually explicit content. Social media companies' content moderation of a decade ago involved handfuls of individuals and user policies were minimal. These programs and policies have dramatically evolved over the years but the proliferation of objectionable content and "fake news" has led to calls for swifter and more aggressive action in response. However, there has also been backlash against perceived censorship in response to filtering of content and alleged "shadow banning."

One area the author specifically focuses in on as motivation for the bill is the rise of hate speech online and the real world consequences. The author points to a recent study of over 500 million Twitter posts from 100 cities in the United States that found that "more targeted, discriminatory tweets posted in a city related to a higher number of hate crimes."<sup>1</sup> This bill seeks to increase transparency around what terms of service social media companies are setting out and how it ensures those terms are abided by. The goal is to learn more about the methods of content moderation and how successful they are.

According to the author:

The line between providing an open forum for productive discourse and permitting the proliferation of hate speech and misinformation is a fine one, and depends largely on the structure and practices of the platform. However, these platforms rarely provide detailed insight into such practices, and into the relative effectiveness of different approaches. This, along with constraints imposed by existing federal law, has historically made policy-making in this space remarkably difficult. This bill seeks to provide critical transparency to both inform the public as to the policies and practices governing the content they post and engage with on social media, and to allow for comparative assessment of content moderation approaches to better equip both

---

<sup>1</sup> Press Release, *Hate speech on Twitter predicts frequency of real-life hate crimes* (June 24, 2019) NYU Tandon School of Engineering, <https://engineering.nyu.edu/news/hate-speech-twitter-predicts-frequency-real-life-hate-crimes>.

social media companies and policymakers to address these growing concerns.

This bill starts with a baseline requirement to have social media platforms post their terms of service. These policies must include information about how users can ask questions, how they can flag content or users in violation, and a list of potential actions that the company might take in response. To ensure meaningful access, the terms of service must be posted in a manner reasonably designed to inform all users of their existence and contents and available in all Medi-Cal threshold languages in which the social media platform offers product features. The bill next requires a detailed report to be compiled by these companies and submitted to the Attorney General on a semiannual basis. The bill also requires the report to contain a “detailed description of content moderation practices” used by the platform. The bill leaves enforcement to the Attorney General or specified city attorneys.

This bill is sponsored by the Anti-Defamation League. It is supported by a variety of groups, including Common Sense and the Islamic Networks Group. It is opposed by various technology and business associations, including the California Chamber of Commerce and TechNet.

For a more thorough analysis of the bill, including a discussion of the relevant legal obstacles posed by the First Amendment and Section 230 of the Communications Decency Act, please see the Senate Judiciary Committee analysis of the bill.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- DOJ: The Department of Justice (DOJ) reports costs of \$414,000 in 2022-23 and \$711,000 annually thereafter in order to enforce the provisions of AB 587 and for IT resources to allow for submissions of terms of service (General Fund).
- Judicial Branch: Unknown cost pressures due to increased court workload (Special Fund – Trial Court Trust Fund, General Fund).

**SUPPORT:** (Verified 8/23/22)

Anti-Defamation League (source)  
Accountable Tech

Alameda County Democratic Party  
American Academy of Pediatrics, California  
American Association of University Women - California  
American Association of University Women, Camarillo Branch  
American Federation of State, County and Municipal Employees, AFL-CIO  
American Jewish Committee - Los Angeles  
American Jewish Committee - San Francisco  
American Muslim & Multifaith Women's Empowerment Council  
The Arc and United Cerebral Palsy California Collaboration  
Armenian Assembly of America  
Armenian National Committee of America - Western Region  
Asian Americans in Action  
Asian Law Alliance  
Bend the Arc: Jewish Action  
Buen Vecino  
California Asian Pacific American Bar Association  
California Democratic Party  
California Federation of Teachers AFL-CIO  
California Hawaii State Conference National Association for the Advancement of  
Colored People  
California Labor Federation, AFL-CIO  
California League of United Latin American Citizens  
California Nurses Association  
California State Council of Service Employees International Union (SEIU  
California)  
California Women's Law Center  
Center for LGBTQ Economic Advancement & Research (CLEAR)  
Center for the Study of Hate & Extremism - California State University, San  
Bernardino  
City of San Luis Obispo  
College Democrats at UC Irvine  
Common Sense  
Consumer Reports Advocacy  
Courage California  
Davis College Democrats  
Decode Democracy  
Democratic Party of the San Fernando Valley  
Democrats for Israel-Orange County  
East Bay Young Democrats  
Equality California

Esperanza Immigrant Rights Project, Catholic Charities of Los Angeles  
The Greenlining Institute  
Harvey Milk LGBTQ Democratic Club  
Hindu American Foundation, Inc.  
Islamic Networks Group  
Islamic Networks Inc.  
Israeli-American Civic Action Network  
Japanese American Citizens League, Berkeley Chapter  
Jewish Center for Justice  
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties  
Jewish Federation of Greater Los Angeles  
Jewish Federation of The Sacramento Region and The Sacramento Jewish Community Relations Council  
Jewish Public Affairs Committee  
Korean American Bar Association of Northern California  
Korean American Coalition - Los Angeles  
League of United Latin American Citizens  
Los Angeles County Democratic Party  
Maplight  
Media Alliance  
Miracle Mile Democratic Club  
National Association for the Advancement of Colored People, SV/SJ  
Nailing It for America  
National Center for Lesbian Rights  
National Council of Jewish Women, California  
National Hispanic Media Coalition  
Oakland Privacy  
Orange County Racial Justice Collaborative  
Pakistani-American Democratic Club of Orange County  
Pilipino American Los Angeles Democrats  
Planned Parenthood Affiliates of California  
Progressive Zionists of California  
ProtectUS  
Rabbis and Cantor of Congregation or Ami  
Sacramento County Young Democrats  
Sacramento LGBT Community Center  
San Diego City Attorney's Office

San Fernando Valley Young Democrats  
San Francisco Democratic Party  
Santa Barbara Women's Political Committee  
Sikh American Legal Defense and Education Fund  
Simon Wiesenthal Center, Inc.  
The Source LGBT+ Center  
Stonewall Democratic Club  
United Food and Commercial Workers, Western States Council  
United Nurses Associations of California/union of Health Care Professionals  
Voices for Progress

**OPPOSITION:** (Verified 8/23/22)

California Chamber of Commerce  
Chamber of Progress  
Civil Justice Association of California  
Computer and Communications Industry Association  
Consumer Technology Association  
Internet Coalition  
MPA - the Association of Magazine Media  
Netchoice  
TechNet

**ARGUMENTS IN SUPPORT:** A coalition of groups, including ADL, Equality California, NAACP, and Esperanza Immigrant Rights Project, emphasizes the need for the bill:

“Despite the widespread nature of these concerns, efforts by social media companies to self-police such content have been widely criticized as opaque, arbitrary, biased, and inadequate. While some platforms share limited information about their efforts, the current lack of transparency has exacerbated concerns about the intent, enforcement, and impact of corporate policies, and deprived policymakers and the general public of critical data and metrics regarding the scope and scale of online hate and disinformation. Additional transparency is needed to allow consumers to make informed choices about the impact of these products (including the impact on their children) and so that researchers, civil society leaders, and policymakers can determine the best means to address this growing threat to our democracy.

AB 587 would address this troubling lack of transparency by requiring social media platforms to publicly disclose their policies and report key data and



metrics around the enforcement of their policies. This disclosure would be accomplished through quarterly public filings with the Attorney General.”

**ARGUMENTS IN OPPOSITION:** A coalition, including TechNet, writes:

“AB 587 requires companies to publicly disclose more than just content moderation policies, which are already available to the public. The bill requires companies to report to the Attorney General sensitive information about how we implement policies, detect activity, train employees, and use technology to detect content in need of moderation. The language makes it explicit that the bill is seeking “detailed” information about content moderation practices, capabilities, and data regarding content moderation.”

**ASSEMBLY FLOOR:** 64-1, 6/2/21

**AYES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Cunningham, Daly, Davies, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lackey, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Valladares, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

**NOES:** Gray

**NO VOTE RECORDED:** Bigelow, Chen, Choi, Megan Dahle, Flora, Fong, Kiley, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Voepel

Prepared by: Christian Kurpiewski / JUD. / (916) 651-4113  
8/26/22 15:32:04

\*\*\*\* **END** \*\*\*\*